

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:07CV303-3-MU

RALPH FRANKLIN FREDRICK, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 NORTH CAROLINA DEPARTMENT )  
 OF CORRECTIONS, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court upon Petitioner's Motion to Proceed In Forma Pauperis (Doc. No. 1) and Motion to Appoint Counsel (Doc. No. 2.) For the reasons stated herein, the Petitioner's Motion to Proceed In Forma Pauperis will be dismissed as moot and Petitioner's Motion to Appoint Counsel will be denied.

A review of the docket reflects that Petitioner filed a Petitioner for Writ of Habeas Corpus on September 13, 2007. By Order dated October 9, 2007 this Court dismissed Petitioner's Petition without prejudice.<sup>1</sup> The record further reflects that Petitioner paid the \$5.00 filing fee on October 4, 2007. Therefore, Petitioner's Motion to Proceed In Forma Pauperis is dismissed as moot.

With respect to Petitioner's motion for counsel, there is no constitutional right to counsel in habeas proceedings such as the instant case. Crowe v. United States, 175 F.2d 799 (4<sup>th</sup> Cir. 1949), cert. denied, 338 U.S. 950 (1950). Furthermore, the Petitioner appears to be adequately

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<sup>1</sup> Petitioner's Petition was dismissed because it was a successive petition filed without authorization from the Fourth Circuit Court of Appeals. See 28 U.S.C. § 2244(b)(3)(A).

representing himself. Consequently, Petitioner's Motion to Appoint Counsel is denied.

**THEREFORE, IT IS HEREBY ORDERED** that:

- 1) Petitioner's Motion to Proceed In Forma Pauperis is dismissed as moot and
- 2) Petitioner's Motion to Appoint Counsel is Denied.

**SO ORDERED.**

Signed: October 16, 2007

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

